

Judge Franklin S. Van Antwerpen

Judge Van Antwerpen was born in 1941. He received a B.S. in Physics from the University of Maine in 1964 and a J.D. from Temple University in 1967. From 1968 to 1970, Judge Van Antwerpen was a member of the Corporate Law Department of Hazeltine Corporation. He served as Chief Counsel for the Northampton County Legal Aid Society during 1970 and 1971. From 1971 to 1979, he was in private practice in Easton, Pennsylvania. He served as a Judge of the Court of Common Pleas of Northampton County from 1979 to 1987. Judge Van Antwerpen was appointed to the United States District Court for the Eastern District of Pennsylvania in 1987. Court is held at The Holmes Building, 4th Floor, Second and Ferry Streets, Easton, PA 18042.

PRELIMINARY GENERAL MATTERS

1. Correspondence With the Court

Judge Van Antwerpen has a Standing Order adopted on January 1, 1999 which provides that if discovery problems cannot be resolved amicably, or if additional depositions or interrogatories are required, such problems or requests shall immediately be brought to the attention of Magistrate Judge Arnold C. Rapoport, (610) 776-0369, by letter or other informal means. Thereafter, an appeal may be taken, if necessary. As to other matters, all counsel are specifically directed to strictly comply with Local Civil Rule 7.1. A written response to all motions must be filed with the court and served within 14 days of the filing and service of a motion.

2. Communications With Law Clerks

If necessary, Judge Van Antwerpen permits counsel to speak directly with his law clerks in Easton but, he prefers that they contact the Deputy Clerk.

3. Telephone Conferences

Judge Van Antwerpen does not use telephone conferences for matters such as pretrial conferences and scheduling changes. He prefers that such matters be handled by filing a motion.

4. Oral Arguments and Evidentiary Hearings

Judge Van Antwerpen does not set aside specific days for oral arguments or evidentiary hearings.

5. Pro Hac Vice Admissions

If necessary, Judge Van Antwerpen allows oral motions for *pro hac vice* admissions although the Court is always happy to grant written motions.

CIVIL CASES

Pretrial Procedure

1. Pretrial Conferences

Judge Van Antwerpen does not regularly conduct status conferences but, he will conduct a settlement conference if requested. Pursuant to Local Civil Rule 21(d)3, trial counsel must appear at any settlement conference and bring with them or have immediately available by telephone all persons whose consent may be necessary to settle a case. This rule is strictly enforced.

Judge Van Antwerpen will schedule a pretrial conference only for an exceptional major case. He uses no fixed agenda for such pretrial conferences. Examples of typical Pretrial Orders entered by Judge Van Antwerpen for jury and non-jury cases are attached.

Continuances and Extensions

1. General Policy

Judge Van Antwerpen will not grant continuances for briefing schedules, oral arguments, evidentiary hearings, and discovery deadlines unless good cause is shown. Judge Van Antwerpen will grant a continuance of a trial date only in rare cases of extreme hardship.

2. Requests for Extensions and Continuances

Requests for a continuance should be made at least fourteen (14) days prior to a scheduled event. Judge Van Antwerpen will usually accept such requests only by motion or stipulation.

General Motion Practice

1. Oral Argument on Motions

Judge Van Antwerpen generally will not grant oral argument on a motion unless the motion has merit and is case dispositive.

2. Reply and Surreply Briefs

Judge Van Antwerpen does not permit reply briefs unless permission is expressly given under Local Civil Rule 20(c).

3. Chambers Copies of Motion Papers

Judge Van Antwerpen requests counsel to send courtesy copies of motion papers to his chambers. Any such copies should be sent to the U.S. District Court, The Holmes Building, 4th Floor, Second and Ferry Streets, Easton, PA 18042.

Discovery Matters

1. Length of Discovery Period and Extensions

Judge Van Antwerpen generally considers four months to be sufficient time for discovery unless the case is a complex one.

2. Discovery Conferences and Dispute Resolution

Judge Van Antwerpen does not hold discovery conferences. Judge Van Antwerpen does not permit telephone conferences to resolve discovery disputes that arise during depositions. A motion should be filed.

3. Confidentiality Agreements

Judge Van Antwerpen has no specific policy concerning uncontested confidentiality orders. Counsel should work out and submit a Stipulated Confidentiality Order for his consideration.

4. Expert Witnesses

In cases involving expert witnesses, Judge Van Antwerpen requires that each expert prepare a written report. He permits the depositions of expert witnesses to be taken by counsel. Judge Van Antwerpen requires the parties to identify each expert witness as soon as they decide to use the expert, but no later than the submission of final pretrial memoranda.

Settlement

1. General Approach to Settlement and Non-jury Cases

In non-jury cases, Judge Van Antwerpen will participate in settlement negotiations very rarely, and only with the agreement of all counsel and parties.

Judge Van Antwerpen generally refers settlement negotiations in non-jury cases to a Magistrate Judge.

2. Referral of Settlement Negotiations to Another District Court Judge

Judge Van Antwerpen will occasionally refer settlement negotiations in non-jury cases to another District Court Judge.

Arbitration

1. General Approach to Arbitration Cases

Judge Van Antwerpen follows the same practices and procedures in arbitration cases that he follows in cases certified as involving more than \$100,000, but he does not follow the pretrial activity in arbitration cases as closely.

2. Scheduling of Trial De Novo From Arbitration

When a trial *de novo* is demanded after arbitration, Judge Van Antwerpen normally schedules the trial as soon as possible, with no pretrial conference or additional time for discovery. He notes that in the usual appeal, the matter should be ready for trial.

Proposed Final Pretrial Memoranda

1. Required Form of Pretrial Memoranda

Judge Van Antwerpen requires only in exceptional complex cases that proposed final pretrial memoranda conform to all of the requirements of Local Civil Rule 21.

2. Common Deficiencies in Pretrial Memoranda

Judge Van Antwerpen notes that the final pretrial memoranda he receives should be *final* unless there are exceptional circumstances.

Injunctions

1. Scheduling and Expedited Discovery

Judge Van Antwerpen schedules preliminary and permanent injunction hearings as court time becomes available. If necessary, he permits expedited and intensive discovery in injunctive matters. In most cases, he prefers to give more discovery time and advance and consolidate the trial of the action on the merits with the hearing under Fed. R. Civ. P. 65(a)(2).

2. Proposed Findings of Fact and Conclusions of Law

Judge Van Antwerpen usually requires the submission of a brief and sequentially numbered proposed findings of fact and conclusions of law in injunction and other non-jury cases. This in lieu of closing argument. Plaintiff usually has fourteen (14) days from the last day of trial to file and serve a brief, proposed findings of fact and conclusions of law. Opposing counsel then has fourteen (14) days from such filing and submission to file and serve a response indicating all areas of agreement and disagreement, as well as a brief and additional proposed findings of fact and conclusions of law.

Trial Procedure

1. Scheduling of Cases

Each case on Judge Van Antwerpen's calendar is placed in the trial pool and then assigned a date certain for trial.

2. Conflicts of Counsel

When counsel become aware of professional or personal conflicts that may affect the trial schedule, they should file a written motion. Judge Van Antwerpen is *very* reluctant to grant continuances of trial dates.

3. Cases Involving Out-of-Town Parties or Witnesses

Judge Van Antwerpen has no special policy for cases involving out-of-town attorneys, parties, or witnesses but expects that counsel will always have enough witnesses present to avoid "down time" at trial.

4. Notetaking by Jurors

Judge Van Antwerpen usually does permit notetaking by jurors.

5. Trial Briefs

Judge Van Antwerpen generally discourages the submission of trial briefs, unless there is some new or unique point to be addressed.

6. Voir Dire

Judge Van Antwerpen permits counsel to conduct all *voir dire*. The judge is usually not present in civil cases and juror selection takes place in Philadelphia with trial the following day in Easton. Judge Van Antwerpen's Deputy Clerk normally is present during *voir dire*. If problems arise and the Deputy Clerk cannot achieve agreement among counsel, he will notify

Judge Van Antwerpen and the Judge will resolve the dispute. Judge Van Antwerpen generally places a time limit of thirty (30) minutes for each side for *voir dire*.

7. Side Bars

Judge Van Antwerpen discourages side-bar conferences.

8. In Limine Motions

Counsel should only submit motions *in limine* immediately prior to the start of trial.

9. Examination of Witnesses Out of Sequence

Judge Van Antwerpen always permits counsel to call witnesses out of turn for the convenience of the witnesses.

10. Opening Statements and Summations

Judge Van Antwerpen generally imposes a twenty (20) minute time limit on opening statements. He normally sets a thirty (30) minute time limit for summations.

11. Examination of Witnesses or Argument by More Than One Attorney

Judge Van Antwerpen permits more than one attorney for a party to examine different witnesses or to argue different points before the Court so long as opposing counsel does not object.

12. Examination of Witnesses Beyond Redirect and Recross

Judge Van Antwerpen generally permits brief, further examination of witnesses after redirect and recross have been completed. Counsel should stand at the Courtroom Podium when questioning witnesses.

13. Videotaped Testimony

Videotaped testimony may be used, however, counsel must supply their own playback equipment and operator in Easton.

14. Reading of Material Into the Record

Judge Van Antwerpen has no special practice or policy about reading stipulations, pleadings, or discovery materials into the record, and he permits counsel to do so at any point in his or her case.

15. Preparation of Exhibits

Judge Van Antwerpen requests that all exhibits be pre-marked and requires this if the case involves more than 50 exhibits. In such a case, a detailed check-off list of the exhibits should be prepared. All exhibits should be sequentially numbered (P-1, P-2, D-1, D-2). Counsel are required to pre-exchange exhibits in all cases. One copy of all exhibits should be provided to Judge Van Antwerpen.

16. Offering Exhibits Into Evidence

Judge Van Antwerpen has no preference as to when counsel should offer exhibits into evidence.

17. Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings

Motions for judgment as a matter of law in jury trials (or motions for judgment on partial findings in non-jury trials) may be oral or written. Judge Van Antwerpen allows brief oral argument on such motions.

18. Proposed Jury Instructions and Verdict Forms

Judge Van Antwerpen prefers that counsel submit proposed jury instructions only on difficult or novel points of law. The instructions should be brief, sequentially numbered, and include citations of authority. Judge Van Antwerpen usually conducts a charge conference on proposed jury instructions. He permits submission of supplemental proposed jury instructions at the charge conference.

19. Proposed Findings of Fact and Conclusions of Law

In non-jury cases, Judge Van Antwerpen usually requires counsel to submit a brief, along with sequentially numbered proposed findings of fact and conclusions of law. This is in lieu of closing argument. Plaintiff usually has fourteen (14) days from the last day of trial to file and serve a brief, proposed findings of fact and conclusions of law. Opposing counsel then has fourteen (14) days from such filing and submission to file and serve a response indicating all areas of agreement and disagreement, as well as a brief and additional proposed findings of fact and conclusions of law.

Jury Deliberations

1. Written Jury Instructions

Judge Van Antwerpen does not give the jury a copy of the instructions.

2. Exhibits in the Jury Room

Judge Van Antwerpen usually permits all exhibits admitted into evidence to go out with the jury. Counsel should inspect the exhibits and agree on the record about which exhibits the jury may see.

3. Handling of Jury Requests to Read Back Testimony or Replay Tapes

Judge Van Antwerpen prefers not to have portions of testimony read back to the jurors or to have tape recordings or videotapes replayed for the jury.

4. Availability of Counsel During Jury Deliberations

Judge Van Antwerpen requires counsel and the parties to remain in the courthouse during jury deliberations. When excused for meals, counsel and the parties shall inform the Deputy Clerk or Court Security Officers of their whereabouts.

5. Taking the Verdict and Special Interrogatories

Judge Van Antwerpen usually takes a special verdict unless the issues are very simple. In most civil cases, Judge Van Antwerpen submits written interrogatories to the jury.

6. Polling the Jury

Judge Van Antwerpen conducts a summary poll of the jury by asking all jurors in agreement with the verdict to rise.

7. Interviewing the Jury

Judge Van Antwerpen usually permits counsel to interview jurors after the verdict has been recorded and the jury has been discharged. The jury is generally told that they may, but are not required to, speak with counsel.

CRIMINAL CASES

1. Approach to Oral Argument and Motions

Judge Van Antwerpen usually permits oral argument on motions in most criminal cases if it is requested by counsel.

2. Pretrial Conferences

Judge Van Antwerpen does not hold pretrial conferences in criminal cases.

3. *Voir Dire*

Judge Van Antwerpen does not allow counsel to conduct *voir dire* in criminal cases. The judge conducts a thorough *voir dire*. Counsel may orally suggest additional questions.

4. *Sentencing Memoranda*

Judge Van Antwerpen permits the submission of sentencing memoranda by both the Government and the Defendant.

OTHER GENERAL MATTERS

1. Judge Van Antwerpen always sits in Easton. The address is U.S. District Court, The Holmes Building, 4th Floor, Second and Ferry Streets, Easton, PA 18042.

2. Judge Van Antwerpen is happy to receive copies of the appellate briefs when a decision he renders is appealed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

NON-JURY PRETRIAL ORDER

CHAMBERS OF
FRANKLIN S. VAN ANTWERPEN
JUDGE

THE HOLMES BUILDING
SECOND AND FERRY STREETS
EASTON, PA 18042
(610) 252-6522

v.

CASE NO. _____

AND NOW, this _____ day of _____, 20__, it is ORDERED that all discovery shall be completed by _____, 20__, following which this case shall be placed in the trial pool in *The Legal Intelligencer*. It is FURTHER ORDERED that:

1. Every case listed in the trial pool must be ready for trial when it is called. If necessary, counsel shall have backup trial counsel available. Jury selection will be in Courtroom 7A of the U.S. Courthouse, 601 Market Street, Philadelphia, PA. The balance of the trial will be held at the U.S. Courthouse, Second & Ferry Streets, Easton, PA. The Judge is permanently assigned to Easton and all trials are conducted there. Trials are usually held from 9:15 a.m. to 4:45 p.m., with three daily recesses.

2. Counsel must have all witnesses available at the courthouse so there will be no downtime. The Court will permit the calling of witnesses out of turn and the use of videotapes, however, counsel must provide their own playback equipment in Easton. Counsel shall make copies of all exhibits for the Court and opposing counsel; pre-mark all exhibits with sequential numbers (P-1, P-2, D-1, D-2); and provide an exhibit check-off list for the Court if there are more than 50 exhibits. Counsel need not present a pretrial order.

3. Under Local Civil Rule 21(d)4(a), counsel should not present points for charge for well-known standard concepts such as burden of proof, credibility, etc. Any points which are necessary shall be sequentially numbered, brief, non-repetitious and fully annotated. All points for charge shall be presented at the start of the trial. Counsel may make last minute changes or additions to the points at the charge conference. The Court usually prepares its own verdict sheet.

4. Counsel should rise when addressing the Court, and stand at the podium when questioning witnesses. Counsel may approach a witness to go over an exhibit or testimony with the witness. Motions *in limine* should be deferred until immediately prior to trial. In jury cases, counsel, parties and witnesses should avoid the Easton Inn on Third Street in Easton where the jury stays.

5. Under Local Civil Rule 24, if discovery problems cannot be resolved amicably, they shall be brought to the attention of the Court at once by way of a written motion. All counsel are specifically directed to strictly comply with Local Civil Rule 20. A written response to all motions must be filed with the Court and served within ten days of the filing and service of a motion. A letter or telephone call is not a motion or response under Fed. R. Civ. P. 7(b)(1). If requested by counsel, the Court will hold a settlement conference. Local Civil Rule 21(d)3 requires trial counsel to appear at such a conference and bring with them, or have immediately available by telephone, all persons whose consent may be necessary to settle this case. Please direct all correspondence and courtesy copies of motions to the District Court in Easton. File all original papers in Philadelphia.

Franklin S. Van Antwerpen, J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PRETRIAL ORDER

CHAMBERS OF
FRANKLIN S. VAN ANTWERPEN
JUDGE

THE HOLMES BUILDING
SECOND AND FERRY STREETS
EASTON, PA 18042
(610) 252-6522

v.

CASE NO. _____

AND NOW, this _____ day of _____, 20____, it is ORDERED that all discovery shall be completed by _____, 20____, following which this case shall be placed in the trial pool in *The Legal Intelligencer*. It is FURTHER ORDERED that:

1. Every case listed in the trial pool must be ready for trial when it is called. If necessary, counsel shall have backup trial counsel available. Trial and all hearings will be held at the U.S. Courthouse, Second & Ferry Streets, Easton, PA. The judge is permanently assigned to Easton and all trials are conducted there. Trials are usually held from 9:15 a.m. to 5:00 p.m., with three daily recesses.

2. Counsel must have all witnesses available at the courthouse so there will be no downtime. The Court will permit the calling of witnesses out of turn and the use of videotapes, however, counsel must provide their own playback equipment in Easton. Counsel shall make copies of all exhibits for the Court and opposing counsel; pre-mark all exhibits with sequential numbers (P-1, P-2, D-1, D-2); and provide an exhibit check-off list for the Court if there are more than 50 exhibits. Counsel need not present a pretrial order.

3. In lieu of closing arguments at trial, the Court usually directs plaintiff to file and serve a brief and sequentially numbered proposed findings of fact within fourteen days of the last day of trial. Opposing counsel then has fourteen days from such service to file and serve a similar brief and proposed findings.

4. Counsel should rise when addressing the Court, and stand at the podium when questioning witnesses. Counsel may approach a witness to go over an exhibit or testimony with the witness. Motions *in limine* should be deferred until immediately prior to trial.

5. Under Local Civil Rule 24, if discovery problems cannot be resolved amicably, they shall be brought to the attention of the Court at once by way of a written motion. All counsel are specifically directed to strictly comply with Local Civil Rule 20. A written response to all motions must be filed with the Court and served within ten days of the filing and service of a motion. A letter or telephone call is not a motion or response under Fed. R. Civ. P. 7(b)(1). If

requested by counsel, the Court will schedule a settlement conference before another judge. Local Civil Rule 21(d)3 requires trial counsel to appear at such a conference and bring with them, or have immediately available by telephone, all persons whose consent may be necessary to settle this case. Please direct all correspondence and courtesy copies of motions to the District Court in Easton. File all original papers in Philadelphia.

Franklin S. Van Antwerpen, J.